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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/607,845	06/30/2000	Anthony A. Nobles	QUICKPS.003A	1583

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EXAMINER

PRIDDY, MICHAEL B

ART UNIT	PAPER NUMBER
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3733

NOTIFICATION DATE	DELIVERY MODE
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10/29/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
eOAPilot@kmob.com

Office Action Summary

Application No.

09/607,845

Applicant(s)

NOBLES ET AL.

Examiner

Michael B. Priddy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,6-16,18-20,22 and 28-42 is/are pending in the application.
- 4a) Of the above claim(s) 18-20,22 and 28-42 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6 is/are allowed.
- 6) ☒ Claim(s) 1,2,4 and 7-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>04/26/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of Group I, Species I and Subspecies II is acknowledged. The traversal is on the grounds that the examination of Groups II and III, Species II and III, and Subspecies II-V, concurrently with elected Group I, Species I and Subspecies I would not impose a serious burden on the Examiner. This is not found persuasive because each of the Groups, Species and Subspecies have acquired a separate status in the art. Furthermore, they meet the criteria for proper restriction: distinctness, as set forth specifically in the restriction requirement mailed on November 30, 2006. Also, it is noted that the search required for Group II is not required for Group I or Group III; the search for Group I is not required for Group II or III and the search for Group III is not required for Group I or II. Thus clearly more than a single search is required if both groups are searched and searching two different inventions at the same time would place a substantial burden on the Examiner.

The requirement is still deemed proper and is therefore made FINAL.

Claim Objections

Claims 11-13 are objected to because of the following informalities: in line 18 of claim 11, driver should be --holder--. Appropriate correction is required.

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Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 4 and 7-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Scirica et al. (U.S. 5,908,428). Scirica et al., as depicted in Figs. 21-23 teach a method of suturing a portion of biological tissue using a suturing device having a longitudinal axis, a needle attached to a suture, a needle driver, and at least one needle holder, the method comprising: (a) positioning a distal needle holder 16 in a distal position relative to the portion of biological tissue, the distal needle holder 16 adapted to releasably hold the needle 200, and positioning a distal end of the needle driver 40 in a proximal position relative to the portion of biological tissue; (b) positioning the needle 200 in either the proximal position or the distal position; (c) moving the needle driver 40 longitudinally in a first direction along a path substantially parallel to the longitudinal axis such that the needle 200 and the suture 34 pass through the portion of biological tissue, thereby forming a suture incision through which the suture 34 passes; and repeating (a) – (c) to form a series of stitches; wherein the needle is positioned in a proximal position relative to the portion of biological tissue by releasably holding the needle 200 near a distal end of the needle driver 40; wherein moving the needle driver 40 longitudinally in

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the first direction results in the needle 200 being releasably held by the distal needle holder 16; wherein the method further comprises releasing the needle 200 from the needle holder after the needle is releasably held by the distal needle holder; and wherein the needle 200 is positioned in the proximal position relative to the portion of biological tissue by extending the needle driver 40 longitudinally, releasably holding the needle 200 near the distal end of the needle driver 40, releasing the needle 200 from the distal needle holder 16, and retracting the needle driver 40 and the needle 200 to the proximal position; wherein the needle 200 is positioned in a distal position relative to the portion of biological tissue by releasably holding the needle 200 with the distal needle holder 16; wherein moving the needle driver 40 longitudinally in the first direction advances the needle 200 from the distal position to the proximal position.

Allowable Subject Matter

Claim 6 is allowed.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael B. Priddy whose telephone number is 571-272-2243. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael B. Priddy
Michael B. Priddy
October 10, 2007


EDWARD C. ROBERT
SUPERVISOR, PATENT EXAMINER